IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3743 OF 2006

Rajesh S/o.Ashok Ranpura ...Applicant

vs.

State of Maharashtra and another ...Respondents

Mr.S.K.Dubey for the Applicant
Mr.A.S.Shitole, A.P.P. for State
Mr.A.H.H.Ponda for Respondent No.2

CORAM: A.S.OKA,J.
DATE : NOVEMBER 29,2006.

P.C.:

1. Heard learned Advocate for the Applicant and the learned Advocate for the second Respondent. The second Respondent has filed a complaint under section 138 of the Negotiable Instruments Act, 1881 against the Applicant in the Court of the Judicial Magistrate First Class, Jawhar, District Thane. The second Respondent has filed one more complaint against the Applicant under section 138 of the said Act of 1881 which is pending in the Court of Metropolitan Magistrate, 30th Court, Kurla, Mumbai.

2. The submission of the learned Advocate for the Applicant is that both the cases are part of the same transaction. He submits that considering the case made out by the Applicant that the complaints are filed on the basis of forged cheques, it is desirable that both the complaints should be heard by

one and the same court. He submits that the Applicant is residing at Vijaywada, State of Andhra Pradesh and therefore it is very inconvenient for him to travel up to Jawhar which is in the interior part of Thane District.

3. The learned Advocate for the second Respondent pointed out that the case which is pending in the Court at Kurla is part heard and examination-in-chief of the complainant is already recorded and the case is now pending for cross examination of the complainant. He states that the second Respondent will have no objection if permanent exemption is granted in favour of the Applicant in so far as the case pending in the Court at Jawhar is concerned.

4. I have heard the submissions. Both the cases relate to different cheques. The Applicant is residing in the State of Andhra Pradesh. If he has any difficulty in attending the court at Jawhar, he can always apply for permanent exemption and his Application is bound to be considered favourably in view of the statement made by the learned Advocate for the second Respondent. The case pending in the Court at Kurla is already part heard and the case which is pending in the Court at Jawhar is not ready for hearing.

5. In my view, no case is made out for passing the order of transfer. Therefore, Application is rejected.

6. It will be open for the Applicant to apply before the learned Judicial Magistrate First Class, Jawhar, District Thane for grant of permanent exemption. If such application is made, the learned Trial Judge will consider the same sympathetically considering the statement made by the Advocate for the second Respondent that the second Respondent has no objection for grant of permanent exemption in favour of the Applicant.

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JUDGE